

RECEIVED
CENTRAL FAX CENTER
JUL 07 2008

Docket No. F-8557

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

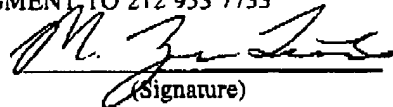
Applicant : Hirotaka YASUDA, et al.
Serial No. : 10/537,791
Filed : June 6, 2005
For : WORM SUPPORT DEVICE AND POWER ASSIST
UNIT HAVING THE SAME
Group Art Unit : 3625
Examiner : Tony H. Winner
Confirmation No. : 6494
Customer No. : 000028107

Certificate of Facsimile Transmission Under 37 CFR 1.8

I hereby certify that this correspondence is being transmitted in accordance with 37 CFR §1.6(d) to the United States Patent Office addressed to COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450 on August 16, 2007 to facsimile no. (571) 271-8300.

TOTAL NUMBER OF PAGES TRANSMITTED: 3
PLEASE TRANSMIT ACKNOWLEDGMENT TO 212 953 7733

M. Zev Levoritz
(Name)


(Signature)

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Sir:

In response to the Office Communication of June 5, 2008, the following is
submitted:

F8557- Reply to Office Communication of 6-5-08 (PC1a).wpd

Docket No. F-8557

Ser. No. 10/537,791

Species I, Fig. 2, upon which claims 9-15 read, is hereby elected.

Applicants respectfully traverse the restriction requirement on the grounds that the restriction is improper because it is asserted under 35 U.S.C. §121. The current application is a National Stage PCT Application filed under 35 U.S.C. §371. Accordingly, a restriction requirement is not proper where unity of invention exists among the claims. PCT Rules 13.1 and 13.2 are to be followed in making a unity of invention determination without regard to restriction practice in applications filed under 35 U.S.C. §111. MPEP §1893.03(d). Such considerations apply to genus/species and combination/subcombination situations. MPEP §1850 (A).

Unity of invention is demonstrated by the Examiner's indication that the subject matter of claim 1 (equivalent to current claim 9) is generic. *See* Office Action of July 20, 2007 page 2. Thus, applicants respectfully request that the restriction requirement be withdrawn. Alternatively, applicants respectfully request a corrected Office Action be issued applying the appropriate standard for a restriction requirement in the current application.

Docket No. F-8557

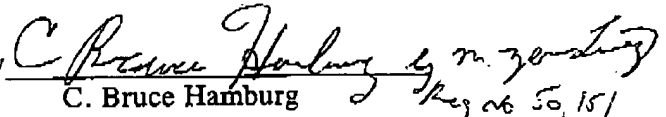
Ser. No. 10/537,791

In light of the foregoing, the application is believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.


No fee is believed due. If there is any fee due the USPTO is hereby authorized to charge such fee to Deposit Account No. 10-1250.

Respectfully submitted,

JORDAN AND HAMBURG LLP

By 
C. Bruce Hamburg
Reg. No. 22,389
Attorney for Applicants

and,

By 
M. Zev Levoritz
Reg. No. 50,151
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340